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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

December 17, 1999

VIA HAND DELIVERY

Magalie R. Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, NW  
Washington, DC 20554

Re: *Amendment of Part 18 of the Commission's Rules to Update Regulations for RF  
Lighting Devices -- ET Docket No. 98-42: NOTICE OF EX PARTE  
COMMUNICATION*

Dear Ms. Salas:

Yesterday afternoon, the undersigned, along with Jay C. Keithley, Vice President of Law and External Affairs of Sprint Corporation ("Sprint"), Harry Perlow, a Sprint engineering consultant, and William W. Huber of Wilkinson Barker Knauer, LLP, met with Karen Rackley, Chief of the Technical Rules Branch, Office of Engineering and Technology, and John A. Reed, Senior Engineer, Technical Rules Branch, to express Sprint's concerns about the proposal of Fusion Lighting ("Fusion") which is currently under consideration in ET Docket No. 98-42 to deploy high-power RF lamps operating in the 2.4 GHz Industrial, Scientific, and Medical ("ISM") band.

During the meeting, Sprint explained that it has recently closed a series of transactions pursuant to which it has acquired control over licenses in the Multipoint Distribution Service ("MDS") and access to excess capacity of numerous Instructional Television Fixed Service ("ITFS") stations in major markets nationwide. The ITFS and MDS services operate in the 2500-2696 MHz bands adjacent to the 2.4 GHz ISM band. Sprint plans to use the ITFS/MDS spectrum to offer a fixed wireless broadband access alternative to both cable and traditional wired telephony, and intends to focus much of its effort on the underserved residential consumer market. In addition, Sprint is committed to ensuring that its ITFS partners have the ability to use this spectrum to meet their educational objectives. Towards these ends, Sprint is actively engaged in developing two-way

wireless communications systems in its markets to take full advantage of the rules on flexible use of the ITFS/MDS spectrum adopted by the Commission in 1998 in MM Docket No. 97-217.

Sprint expressed its concern that, although Section 18.115(c) of the Commission's Rules requires ISM equipment manufacturers and users to cure harmful interference caused to any authorized radio service<sup>1/</sup> and Section 18.213 obligates Fusion to both warn purchasers of the interference potential of its RF lighting devices and provide "simple measures that can be taken by the user to correct interference,"<sup>2/</sup> the widespread deployment of Fusion's lighting devices may nevertheless have adverse effects on Sprint's ability to utilize the ITFS/MDS spectrum to provide a viable broadband wireless service to the public. Sprint established, based on information submitted by Fusion in this proceeding, that the 2.4 GHz magnetrons used in Fusion's lighting devices will generate out-of-band emissions in the bands above 2500 MHz that are allocated for ITFS and MDS use. Sprint discussed how, although the extent of the resulting interference will necessarily depend upon the proximity of the lighting devices to Sprint's response station hubs and subscriber units and upon the number of RF lighting devices deployed in any given area, out-of-band emissions from the lighting devices championed by Fusion will inevitably create serious harmful electrical interference to Sprint's ITFS/MDS systems. Sprint noted that such a scenario would have a dramatic adverse impact upon Sprint's ability to provide a viable broadband wireless service utilizing the ITFS/MDS bands (which are uniquely suited for serving the residential market due to the long path lengths that are possible), since Sprint's service would be unable to match the reliability that consumers have come to expect from the primary telecommunications service providers against whom Sprint will compete.<sup>3/</sup>

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<sup>1/</sup> See 47 C.F.R. § 18.115 (c).

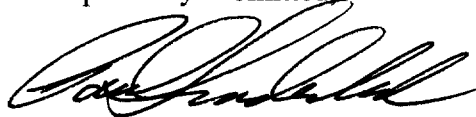
<sup>2/</sup> 47 C.F.R. § 18.213.

<sup>3/</sup> In this regard, Sprint noted that the procedures set forth in Part 18 for resolving interference complaints are time-consuming, and that its subscribers would suffer interference until any dispute is resolved by the Commission staff. Sprint pointed out that those who purchase Fusion lighting equipment will likely be unaware of their obligation under the Commission's rules to protect Sprint from interference (despite whatever perfunctory warning might appear on the packaging) and therefore likely will be reluctant to cooperate with Sprint initially (particularly where they must cease using their new lighting system), until the Commission staff directs them to do so. Thus, service disruptions caused by Fusion products will likely continue for extended periods of time.

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Please contact the undersigned should you have any questions regarding this *ex parte* presentation.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Paul J. Sinderbrand', with a stylized, cursive script.

Paul J. Sinderbrand

Counsel to Sprint Corporation

cc: Karen Rackley  
John Reed  
Julius Knapp  
Terry Mahn, Esq.